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WESTERN DISTRICT OF LOUISIANA
SHREVEPORT, LOUISIANA
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United States District Court
Western District of Louisiana
Lake Charles Division

United States of America
versus
Max Ray Butler

Criminal No. 18-CR-242-01
Judge Zainey
Magistrate Judge Kay

EMERGENCY MOTION FOR ORDER REDUCING SENTENCE
PURSUANT TO 18 USC 3582(c)(1)(A)(i)

Defendant Max Ray Butler does not have counsel so comes Pro Se and will do my best to present my request to the court. If there is opposition to this motion I ask the Court to please appoint counsel to help brief on legal issues as I do not have access to the Law Library here and cannot present legal arguments/cases.

I wrote a letter to my Warden as required under 18 USC 3582(c)(1) and he has not replied in over 30 days (May 17th letter) so I am now motioning the Court directly.

I am in an unusual situation. Normally a sentenced inmate leaves Court and is quickly moved to a prison fitting their security level, and toward the end of their sentence they are put in RRC (halfway house or home confinement) to facilitate a transition back into society.

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However, in my case I was put in a Medium security facility by mistake (I am Low custody), then moved to the neighboring facility (also a Medium, but containing holdover units) to await transfer to another prison. The staff here refuse to do so, violating the law, because they say this is only holdover and the "next prison" will do RRC evaluation (the law makes no exception for "holdover"). Now I only have 9 months left. I have been in custody since 2007 and will need as much transition time as possible. RRC is not a reward nor to be used as punishment - it is to increase the likelihood of successful reintegration into the community. Had the BOP followed the law and had the COVID-19 Pandemic not been with us I could have already been out at halfway house or more likely home confinement by now.

The COVID-19 Pandemic has now frozen the BOP system, stopping transfers, and yet Victorville FCI 2 has not adjusted to the new reality and still refuses to process my RRC.

As stated in my PSI, I have a long time respiratory condition (structural nasal obstruction/deviated septum) for which the BOP has prescribed me an inhaler (fluticasone Propionate) which is a corticosteroid, suppressing the immune system. The CDC lists prolonged use of corticosteroids as a risk factor heightening the risk of contracting or dying from COVID-19. They say I am "at higher risk for severe illness from COVID-19" due to "prolonged use of corticosteroids and other immune weakening medications." <http://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-higher-risk.html>

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The prescribing information of my inhaler describes "weakened immune system and increased chance of getting infections (immunosuppression)," warning that it "weakens your immune system" and "makes you more likely to get infections" (including viral) and to "avoid contact with people who have a contagious disease."

At least 86 inmates have died in federal custody from COVID-19 in the past few months and there are now infections at this facility as well. The rate of infection is nearly seven times greater in BOP than in the general population of the United States, yet only 2% of the prison population has been transferred to home confinement.

Both of my parents have offered to let me stay with them for a home confinement period and both offer their support regardless of where I go. A verifiable and demonstratable re-entry plan could include home confinement at my Mother's home in Lake Oswego Oregon where I can engage in continuing therapy and mental health online while maintaining social distancing. Details are in my PSI or my Mother could be contacted as well.

I pled guilty and accepted responsibility, and have served all but the last few months of my sentence. Allowing me to serve the remainder of my sentence in home confinement would also not result in sentence disparities among codefendants


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as my sentence was more than twice the next highest sentence and other equally culpable codefendants received probation or had their charges dismissed.

I don't know what an equitable exception is but I read that in light of COVID-19 pandemic it should apply, and that my being immunocompromised due to corticosteroid use and my structural nasal obstruction requiring surgery qualify as extraordinary and compelling circumstances with the COVID-19 situation. If granted counsel I'm sure they could say more but I don't know what else to say.

I only have 9 months left. I ask the Court to please allow me compassionate release to serve the remainder of my sentence on home confinement.

Dated: ^{nb} July 2, 2020

Signed 
Max Ray Butler
Defendant, Pro Se

Addendum

We were told today that there are another 16 cases of COVID-19 infection here, and also that the BOP has instituted a nationwide freeze on any inmate movement.

Dated ^{ms} July 2, 2020

Signed 

Max Ray Butler
Defendant, Pro Se